

SCOTT J. SAGARIA (BAR # 217981)
sjsagaria@sagarialaw.com
ELLIOT W. GALE (BAR #263326)
egale@sagarialaw.com
JOE B. ANGELO (BAR #268542)
jangelo@sagarialaw.com
SCOTT M. JOHNSON (BAR #287182)
sjohnson@sagarialaw.com
SAGARIA LAW, P.C.
3017 Douglas Blvd., Ste. 100
Roseville, CA 95661
408-279-2288 ph
408-279-2299 fax

Attorneys for Plaintiff
Jacqueline Tuato'o

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

JACQUELINE TUATO'O,

Plaintiff,

v.

Experian Information Solutions, Inc.; TK
Financial, Inc. and DOES 1 through 100
inclusive,

Defendants.

CASE NO.

COMPLAINT FOR DAMAGES:

1. Violation of Fair Credit Reporting Act;
2. Violation of California Consumer Credit Reporting Agencies Act;

COMES NOW Plaintiff JACQUELIN TUATO'O, an individual, based on information and belief, to allege as follows:

INTRODUCTION

1. This case arises under the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b) and the California Consumer Credit Reporting Agencies Act, California Civil Code §1785.25(a). Plaintiff seeks redress for the unlawful and deceptive practices committed by the Defendants in connection with their inaccurate, misleading, or incomplete reporting of Plaintiff's debt included in Plaintiff's Chapter 13 bankruptcy.

2. Here the reporting involves that Plaintiff's account in collections, and is not reporting that Plaintiff filed for chapter 13 bankruptcy.
3. There exists today in the United States a pervasive and fundamental misunderstanding about the long term impact filing a consumer bankruptcy has on a consumer's credit worthiness. Specifically, many consumers believe that because a bankruptcy can be reported on their credit report for ten years their credit worthiness will be ruined for the same length of time. This is not true.
4. The *majority* of consumer Debtors who file consumer bankruptcy do so to *raise* their FICO Score and remedy their poor credit worthiness.
5. It is entirely possible for consumer Debtors to have over a 700 FICO Score within as little as 12 months after filing a consumer bankruptcy (Chapter 7 or Chapter 13).
6. Creditors and lending institutions are aware of the misconception that filing a consumer bankruptcy destroys a consumer's credit worthiness for ten years.
7. In an effort to perpetuate the aforementioned bankruptcy myth, creditors intentionally and routinely ignore credit reporting industry standards for accurately reporting bankruptcies and debts included in those bankruptcies in an effort to keep consumers' credit scores low and their interest rates high.
8. Creditors know that by deviating from recognized credit reporting standards consumers will have difficulty raising their credit scores and improving their credit worthiness.
9. These credit reporting issues are most prevalent in Chapter 13 bankruptcy filings.
10. Consequently, in the United States today it is objectively worse for consumers' credit worthiness to file Chapter 13 and pay back some or all of their debt, as opposed to filing Chapter 7 liquidation where Creditors generally receive nothing.
11. This was not the intent of Congress when enacting the Fair Credit Reporting Act and the Bankruptcy Abuse Prevention and Consumer Protection Act.

JURISDICTION & VENUE

12. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and every paragraph above, fully set forth herein.
13. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, and 1367, and 15 U.S.C. § 1681

14. This venue is proper pursuant to 28 U.S.C. §1391(b).

GENERAL ALLEGATIONS

15. Plaintiff alleges that each and every defendant data furnisher was included in Plaintiff's Chapter 13 bankruptcy filing.

16. Plaintiff alleges that each and every Defendant is familiar with credit reporting industry standards and subscribes thereto.

17. Plaintiff alleges that each and every Defendant understands that deviation from credit reporting industry standards can and often does result in denial of credit, higher interest rates, and prompts those making credit decisions to draw a more negative inference from the reported data than if the Defendant reported in accordance with the recognized industry standard.

18. Plaintiff alleges that all actions alleged herein by Defendants were done knowingly, intentionally, and in reckless disregard for credit reporting industry standards in an attempt to purposefully undermine Plaintiff's ability to reorganize and repair Plaintiff's FICO Score.

19. In the alternative Plaintiff alleges that each and every Defendant's actions was the result of reckless policies and procedures that inevitably led to inaccurate, misleading, or incomplete credit reporting.

FICO, Inc.

20. FICO is a leading analytics software company with its principal headquarters located in San Jose California. FICO has over 130 patents related to their analytics and decision management technology, and regularly uses mathematical algorithms to predict consumer behavior including credit risk.

21. The FICO Score has become the standard measure of consumer credit risk in the United States and is used in ninety percent of lending decisions.

22. A FICO score consists of a three-digit number summarizing a consumer's credit risk or likelihood to repay a loan. FICO periodically updates its scoring models resulting in multiple FICO Score versions.

23. Base FICO Scores range from 300 to 850, while industry-specific FICO Scores range from 250-900. A higher FICO Score demonstrates lower credit risk or less likelihood of default.
24. Different lenders use different versions of FICO Scores when evaluating a consumer's credit worthiness.
25. There are 28 FICO Scores that are commonly used by lenders.
26. A consumer's FICO Score is calculated based solely on information in consumer credit reports maintained at credit reporting agencies (CRAs).
27. The three largest CRAs are Experian Information Solutions, Inc.; Experian and Transunion, LLC.
28. FICO does not control what information is provided on a consumer's credit report. Instead, the scoring models or algorithms are based on the premise that information provided by the CRAs is accurate and complies with credit reporting industry standards.
29. There are five key factors that a FICO Score considers: 1) Payment History 2) Amount of Debt 3) Length of Credit History 4) New Credit and 5) Credit Mix.
30. Each of the five factors is weighted differently by FICO.
31. 35% of a consumer's FICO Score relates to payment history, 30% relates to the amount of debt, 15% relates to the length of credit history, 10% relates to new credit, and the last 10% relates to a consumer's credit mix or the different types of debts reported.
32. Payment history refers to whether a consumer has paid their bills in the past, on time, late or missed payments. The more severe, recent, and frequent the late payment information, the greater the impact on a FICO Score. Public record items such as bankruptcy, foreclosure, judgments, and wage garnishments are also considered part of a consumer's payment history.
33. In factoring the severity of delinquent payments a FICO Score considers how late the payment continues to be, how much is owed, how recently this occurred, and how many delinquent accounts exist.
34. Once a delinquent account has been remedied the longer the account stays current the more a consumer's FICO Score should increase.

1 35. FICO Scores are entirely dependent upon information provided by data furnishers
2 (DFs) to CRAs.

3 36. The FICO scoring formula treats both Chapter 7 and Chapter 13 Bankruptcies similarly
4 in terms of their impact on one's FICO Score. Specifically, both Chapters have the
5 same level of severity with respect to their FICO Score and for both, FICO uses the
6 FILING DATE to determine how long ago the bankruptcy took place.

7 **Metro 2**

8 37. The Consumer Data Industry Association is an international trade association
9 representing the consumer credit, mortgage reporting, employment and tenant screening
10 and collection service industries.

11 38. The credit reporting industry has adopted a standard electronic data reporting format
12 called the Metro 2 format. The Metro 2 format was developed by the CDIA in an effort
13 to universally report debts in a particular manner that is understood to be the most
14 accurate way in which to report a debt. Specifically, Metro 2 format was designed to
15 allow reporting of the most accurate and complete information on consumer's credit
16 history.

17 39. The CDIA's Metro 2 format is the credit reporting industry standard for accurate credit
18 reporting.

19 40. The credit reporting industry at large depends upon Metro 2 and the CDIA's
20 recommendations for reporting debt accurately.

21 41. The CDIA is *The* expert on accurate credit reporting. In support of this allegation
22 Plaintiff avers the following:

- 23 a. The CDIA offers a FCRA certificate program for all CRAs.
- 24 b. The CDIA offers a FCRA awareness program for all CRAs.
- 25 c. The CDIA offers a FCRA Certificate program for DFs.
- 26 d. The CDIA offers a FCRA awareness program for DFs.
- 27 e. The CDIA offers a Metro 2 Learning system to provide detailed instructions on
28 the use of Metro 2 format to ensure understanding of the reporting guidelines
for each field of the Metro 2 Format as well as the relationship between multiple
fields.

- 1 f. The CDIA hosts workshops developed and authorized by Experian, Experian,
2 Innovis, and Transunion.
- 3 g. The CDIA developed a credit reporting resource guide for accurately reporting
4 credit.
- 5 42. The CDIA's Metro 2 is accepted by all CRAs.
- 6 43. The credit reporting accepted industry standards for reporting metro 2 accurately are
7 found in the CDIA's credit reporting resource guide (CRRG).
- 8 44. The CRRG outlines the industry standards for most accurately reporting debts using
9 Metro 2.
- 10 45. The CRRG is not readily available to the public. It can be purchased online for
11 \$229.45.
- 12 46. Even if a buyer is ready willing and able to pay for the CRRG, the CDIA will NOT
13 grant access to the guide unless the buyer represents an organization included in the
14 Metro 2 Access Policy.
- 15 47. When FICO calculates credit scores the algorithms use Metro 2 information based on
16 industry standards established by the CDIA.
- 17 48. The algorithms used by FICO in determining a consumer's credit score are premised on
18 the Metro 2 data received comporting with the CDIA's recommendations for accurate
19 credit reporting.
- 20 49. If the Metro 2 data received by FICO deviates from industry standards an inaccurate or
21 incorrect FICO Score results. If the resulting FICO Score is lower a consumer will be
22 considered a higher credit risk resulting in less favorable lending terms.

23 **e-OSCAR**

- 24 50. E-OSCAR is the web based Metro 2 compliant system developed by Experian
25 Information Solutions, Inc.; Experian, Inc.; TransUnion, LLC and Innovis that enables
26 DFs and CRAs to create and respond to consumer credit disputes.
- 27 51. When a consumer sends a dispute letter to a CRA the CRA then sends an automated
28 credit dispute verification (ACDV) via e-Oscar to the DF.
52. The ACDV contains within it Metro 2 codes next to certain data fields associated with a
credit file e.g. "Account Type" "07" (07 in Metro 2 refers to a Charge Account).

**Bankruptcy Credit Reporting Industry Standards & Consumer
Information Indicator**

53. When a consumer files bankruptcy certain credit reporting industry standards exist.
54. Certain Metro 2 data is regularly expected and calculated by FICO when determining a consumer's credit worthiness.
55. The Consumer Information Indicator (CII) is a critical field in the Metro 2 Format that indicates a special condition that applies to a specific consumer.
56. Under Metro 2 the CII must be reported only on the consumer to whom the information applies.
57. It is the credit reporting industry standard to report a very specific CII upon the filing of a consumer bankruptcy.
58. In the consumer bankruptcy context CII Metro 2 Code "A" denotes that a petition for Chapter 7 has been filed, is active, but no discharge has been entered.
59. CII Metro 2 Code "D" indicates that a Chapter 13 petition has been filed, is active, but no discharge entered. This is usually translated on a consumer credit report as "Wage Earner Plan" or "WEP" in the "Account Status" portion of a trade line. Such reporting alerts any potential lender that the account is no longer in a collectable status but is being handled by a Chapter 13 trustee.
60. The CII Metro 2 Code "Z" indicates that a bankruptcy petition has been filed but the chapter is undesignated/unknown.
61. The CII Metro 2 Code "E" denotes that a Chapter 7 bankruptcy has been discharged.
62. The CII Metro 2 Code "H" denotes that a Chapter 13 bankruptcy has been discharged.
63. The CII field is a critical field for consumers and directly relates to and impacts a consumer's credit worthiness.
64. The lack of a CII reported makes it appear that a consumer has not addressed outstanding debt obligations through the bankruptcy process.
65. The lack of a CII reported also suggests that creditors are free to collect against a consumer as an individual or that no stay exists to prevent *in personam* collection activity.
66. Failure to report the correct CII indicator will prompt those making credit decisions to draw a more negative inference regarding a consumer's credit worthiness.

1 67. Under the Fair Credit Reporting Act a bankruptcy can be reported for ten years.

2 68. The ten-year rule for reporting runs from the date the bankruptcy was *filed*.

3 69. A consumer's FICO Score is directly related to the date on which a petition is filed and
4 acknowledged.

5 70. The more time that has passed since the filing of the bankruptcy, the less negative
6 impact the bankruptcy will have on a consumer's FICO Score.

7 Failure to reference the bankruptcy filing (CII field) and or the correct petition date
8 shall result in a lower FICO Score resulting in those making credit decisions to draw a
9 more negative inference regarding a consumer's credit worthiness

Plaintiffs Bankruptcy Filing

10 71. Plaintiff filed for Chapter 13 bankruptcy protection on June 22, 2016 in order to
11 reorganize and repair Plaintiff's credit worthiness and FICO Score.

12 72. Chapter 13 of the Bankruptcy Code is titled "Adjustment of Debts of an Individual with
13 Regular Income."

14 73. Plaintiff's plan was confirmed on September 23, 2016.

15 74. On January 16, 2017 Plaintiff ordered a three bureau report from Equifax to ensure
16 proper reporting by Plaintiff's Creditors.

17 75. Plaintiff noticed several different trade lines on the January 16, 2017 credit report all
18 reporting inaccurate, misleading, or incomplete information that did not comply with
19 credit reporting industry standards.

20 76. Multiple trade lines continued to report Plaintiff's accounts with past due balances,
21 inaccurate balances, and/or inaccurate monthly payments owed.

22 77. Some accounts even failed to register that Plaintiff was making payments on the
23 account through Plaintiff's Chapter 13 plan.

24 78. Defendant TK Financial was included in those trade lines.

25 79. In response, Plaintiff disputed the inaccurate tradelines via certified mail with Experian
26 Information Solutions, Inc.; Equifax, Inc.; and TransUnion, LLC on Marcy 31, 2017.

27 80. Plaintiff's dispute letter specifically put each Creditor on notice that Plaintiff had filed
28 for bankruptcy and specifically requested each Creditor investigate the proper way to
report Plaintiff's accounts once a bankruptcy was filed.

- 1 81. Plaintiff noted that the accounts should be reported disputed if the Creditor disagreed
2 with Plaintiff's dispute.
- 3 82. Plaintiff is informed and believes that each CRA received Plaintiff's dispute letter and
4 in response sent Plaintiff's dispute to each DF via an ACDV through e-OSCAR.
- 5 83. Sometime thereafter Plaintiff received a reinvestigation report from Experian dated
6 April 28, 2017 which stated that Experian had received Plaintiff's dispute and had
7 "updated" the TK Financial account.
- 8 84. To Plaintiff's shock rather than update the account to show it had been included in
9 Plaintiff's Chapter 13 i.e. update the CII to D, Experian re-reported the same account
10 status and actually increased the balance and past due balance owed on the account!
- 11 85. Confused, on May 12, 2017 Plaintiff ordered a second credit report from Experian for
12 the sole purpose of verifying there wasn't some mistake with the reinvestigation report
13 provided by Experian.
- 14 86. Again, Experian's report still showed Defendant TK Financial Credit Union reporting
15 Plaintiff's account, beginning in D3028xxxx as being in collection with an increased
16 balance and past due balance without referencing that the account has been included in
17 Plaintiff's Chapter 13.
- 18 87. Thus TK Financial was not reporting the CII D, which indicates that the account was
19 included in a chapter 13 bankruptcy.
- 20 88. By failing to report the correct CII it appears that the account is subject to active
21 collections and that Plaintiff can be garnished or levied, despite including the account in
22 the bankruptcy filing.
- 23 89. The failure to update the CII to D also is misleading as potential lenders reviewing the
24 credit report may not be aware the account is subject to Plaintiff's chapter 13 bankruptcy.
- 25 90. The actions of Defendants Experian and TK Financial as alleged herein are acts in
26 violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b).
- 27 91. The actions of TK Financial as alleged herein are acts in violation of the Consumer
28 Credit Reporting Agencies Act California Civil Code § 1785.25(a).

FIRST CAUSE OF ACTION

(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681s-2(b))
Against Defendants and Does 1-100)

TK Financial –Failure to Reinvestigate.

92. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.
93. 15 USC 1681s-2(b) and 15 USC 1681i-(a)1 prohibits furnishers from providing any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate or misleading and requires a furnisher to update and or correct inaccurate information after being notified by a consumer reporting agency of a dispute by a consumer.
94. Defendants TK Financial violated section 1681s-2(b) by failing to conduct a reasonable investigation and re-reporting misleading and inaccurate account information.
95. The CRAs provided notice to the Defendants that Plaintiff was disputing the inaccurate and misleading information but TK Financial failed to conduct a reasonable investigation of the information as required by the FCRA.
96. Based on Plaintiff's dispute, Defendant TK Financial should have known its account was included in Plaintiff's Chapter 13 plan of reorganization and reflect the payments it received.
97. The most basic investigation would include a simple review of well-established credit reporting industry standards and whether or not Plaintiff included TK Financial's debt in Plaintiff's Chapter 13.
98. Plaintiff alleges Defendant TK Financial did not review well established industry standards for credit reporting or whether its account was in fact included in Plaintiff's Chapter 13.
99. If Defendant TK Financial had reviewed such standards Defendant TK Financial would obviously uncovered that it should have updated the CII to D.
100. Such an investigation would have been reasonable but Defendant TK Financial did no such investigation.

1 101. Plaintiff also alleges that Defendant TK Financial did not investigate whether Plaintiff
2 filed for bankruptcy, whether their accounts were included, the terms of the plan, whether
3 or not the terms had been approved, and what payments were received.

4 102. The lack of investigation is unreasonable.

5 **Willfulness**

6 103. Plaintiff further alleges that Defendant TK Financial's actions were willful because
7 Defendant has instituted reckless policies and procedures that make inaccuracies
8 inevitable.

9 104. Specifically, TK Financial does not properly train its employees investigating disputes
10 on credit reporting industry standards and instead employees are regularly expected to
11 verify that whatever information is being reported currently is generally accurate.

12 105. Plaintiff further alleges that to the extent any investigation takes place such
13 investigation as a policy is cursory (taking less than five minutes) in nature rather than
14 reasonable..

15 **Damages**

16 106. Given that the actions of TK Financial were willful Plaintiff is entitled to statutory
17 damages of not less than \$100 and not more than \$1,000 plus punitive damages under
18 15 U.S.C §1681n.

19 107. Plaintiff also seeks actual damages related to Plaintiff's emotional distress and
20 frustration over Defendant TK Financial's refusal to update the accounts described
21 herein and the cost of pulling the credit report at issue for the sole purpose of verifying
22 accuracy AFTER the dispute process was complete.

23 **Experian– Failure to Reinvestigate Disputed Information.**

24 108. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
25 above as though fully set forth herein.

26 109. After Plaintiff disputed the accounts mentioned above, Experian was required to
27 conduct a reasonable investigation and to delete any information that was not accurate
28 under 15 USC 1681i-(a)1.

110. Experian failed to conduct a reasonable investigation and failed to correct the misleading and or inaccurate statements on the account within the statutory time frame or at all.
111. Plaintiff alleges that Experian has a duty to conduct a reasonable investigation 15 USC 1681i-(a)1.
112. Experian is not a passive entity bound to report whatever information a DF provides.
113. Plaintiff alleges that Experian is readily familiar with Metro 2 guidelines and credit reporting industry standards. .
114. Plaintiff alleges that Experian can and does suppress inaccurate information from being reported when DFs provide inaccurate information.
115. Experian can and does instruct DFs on how to properly report certain accounts from time to time upon request from the DF.
116. Experian failed to conduct a reasonable investigation because any basic investigation would have uncovered that certain DFs were not following credit reporting industry standards.
117. Experian would have known that Plaintiff filed for Chapter 13 based on multiple other accounts reporting as much.
118. Experian would therefore know that failure to update the CII to reflect a “D” would make Plaintiff’s report entirely incomplete, misleading, and therefore inaccurate.
119. Experian therefore did not do the most basic investigation regarding credit reporting industry standards otherwise the aforementioned would have been uncovered.

Willfulness

120. Plaintiff further alleges that Experian’s actions were willful because each Defendant has instituted reckless policies and procedures that make inaccuracies inevitable.
121. Specifically, neither Defendant properly trains its employees investigating disputes on credit reporting industry standards. Instead employees are regularly expected to verify that whatever information is being reported currently is generally accurate. *See Saez v. Trans Union, LLC*, 621 F.Supp. 2d 1074, 1083, 1088 (D.Or. 2007); *Grigoryan v. Experian Info. Sols., Inc.*, 84 F. Supp. 3d 1044, 1091 (C.D. Cal. 2014); *Haykuhi Avetisyan v. Experian Info Sols.*, No. CV 14-05276-AB (ASX)

122. Plaintiff further alleges that to the extent any investigation takes place such investigation as a policy is cursory (taking less than five minutes) in nature rather than reasonable.

123. Last Plaintiff alleges that Experian intentionally hires employees outside of the United States to investigate disputed in an intentional effort to frustrate a consumer's ability to confront those individuals directly responsible for the accuracy of their report.

Damages

124. Experian disseminated the inaccurate information contained herein to JPMorgan Chase on January 17, 2015

125. Given that the actions of Experian were willful Plaintiff is entitled to statutory damages of not less than \$100 and not more than \$1,000 plus punitive damages under 15 U.S.C §1681n.

126. Plaintiff also seeks actual damages related to Plaintiff's emotional distress and frustration over Experian's refusal to update the accounts described herein and the cost of pulling the credit report at issue for the sole purpose of verifying accuracy AFTER the dispute process was complete.

SECOND CAUSE OF ACTION

(Violation of California Consumer Credit Reporting Agencies Act
California Civil Code § 1785.25(a) Against Defendants and Does 1-100)

TK Financial – Reporting Inaccurate Information to CRAs.

127. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

128. In the regular course of its business operations, TK Financial routinely furnish information to credit reporting agencies pertaining to transactions between Defendants and Defendant's consumers, so as to provide information to a consumer's credit worthiness, credit standing and credit capacity.

129. TK Financial intentionally and knowingly reported misleading and inaccurate account information to the CRAs that did not comport with well-established industry standards.

130. Plaintiff alleges that TK Financial re-reported the information contained herein in violation of California Civil Code § 1785.25(a).

- 1 131. Plaintiff also alleges that Defendant TK Financial had reason to know that the
2 information reported on Plaintiff's accounts were misleading, inaccurate, incomplete,
3 and did not comport with well-established credit reporting industry standards.
- 4 132. Plaintiff alleges that Defendant TK Financial had reason to know that by not
5 comporting with well-established industry standards lenders will draw a more negative
6 inference with respect to Plaintiff's credit worthiness.
- 7 133. Plaintiff alleges that the bankruptcy notices, disputes letters from all three credit
8 reporting agencies, the consumer data industry resource guide, and results of its
9 investigation should have provided notice to Defendants of its misleading and
10 inaccurate reporting as well as being noticed of the plan confirmation and proof of
11 claim forms sent by the U.S. Bankruptcy Court.
- 12 134. TK Financial failed to notify Experian Information Solutions, Inc. the information
13 Defendants re-reported was inaccurate before the end of 30 business days, in violation
14 of California Civil Code § 1785.25(a).
- 15 135. Defendant TK Financial's communication of false information, and repeated failures to
16 investigate, and correct their inaccurate information and erroneous reporting were done
17 knowingly, intentionally, and in reckless disregard for their duties and Plaintiff's rights.
- 18 136. As a direct and proximate result of Defendant TK Financial's willful and untrue
19 communications, Plaintiff has suffered actual damages including but not limited to
20 inability to properly reorganize under Chapter 13, reviewing credit reports from all
21 three consumer reporting agencies, time reviewing reports with counsel, sending
22 demand letters, diminished credit score, emotional distress and such further expenses in
23 an amount to be determined at trial.

24 **THIRD CAUSE OF ACTION**

25 (Violation of Fair Credit Reporting Act 15 U.S.C. § 1681e(b))

26 Against Defendants and Does 1-100)

27 **Experian Information Solutions, Inc. – Failure to Assure Credit Reporting
28 Accuracy.**

137. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
above as though fully set forth herein.

1 138. Experian violated 15 U.S.C. § 1681e(b) by failing to establish and/or to follow reasonable
2 procedures to assure maximum possible accuracy in the preparation of Plaintiff's credit
3 reports and credit files it published and maintained concerning Plaintiff.

4 139. Had Experian maintained reasonable procedures to assure maximum accuracy Experian
5 would never have allowed Defendant TK Financial to report the account as described
6 herein.

7 140. As a result of Experian's violation of 15 U.S.C. § 1681e(b), Plaintiff suffered actual
8 damages, including but not limited to: diminished credit, damage to reputation,
9 embarrassment, humiliation, and other mental and emotional distress.

10 **Willfulness**

11 141. The violations described herein by Experian were willful, specifically the Credit Bureaus
12 including defendant Experian have intentionally and purposefully set up a system where
13 inaccuracies are not only probable but inevitable.

14 142. Experian intentionally sends consumer disputes to employees who do not live within the
15 continental United States.

16 143. This is intentionally done to hide and or subvert a consumer's ability to confront
17 individual directly responsible for approving accurate reporting.

18 144. These employees for Defendant Experian receive little to no training concerning how
19 to accurately report consumer debt.

20 145. Instead these employees are simply instructed to parrot whatever information a data
21 furnisher provides regardless of whether or not that information is accurate.

22 146. Experian employees are regularly expected to review and approve over 90 disputes per
23 day rendering less than five minutes to review, investigate, and respond to each dispute
24 received.

25 147. Experian has intentionally setup this system in order to undermine, hide, and otherwise
26 frustrate consumers' ability to properly dispute and correct credit reports.

27 148. Experian also allowed both Data furnishers to report these accounts post chapter 13
28 confirmation with actual knowledge of the bankruptcy filing.

149. The same credit report that contain these inaccuracies also reflects in the public records
section that Plaintiff has filed for chapter 13 bankruptcy.

1 150. Experian knew plaintiff filed bankruptcy and yet somehow allowed these data furnishers
2 to reports inaccurately and obviously outside of recognized industry standards.

3 151. Given that Experian helped draft the CRRG, and Plaintiff specifically referenced
4 industry guidelines in the dispute letter Experian knew that these accounts were not
5 reporting in a manner consistent with industry standards i.e. accurate, but chose to do
6 nothing.

7 152. Consequently, Defendant Experian is liable for punitive damages in an amount to be
8 determines by the Court pursuant to 15 U.S.C. § 1681n. In the alternative, Experian was
9 at least negligent, which entitles Plaintiff to recovery under 15 U.S.C. § 1681o.

10 153. Plaintiff is entitled to recover actual damages, statutory damages, costs and attorney's
11 fees from Experian in an amount to be determines by the Court pursuant to 15 U.S.C. §
12 1681n and § 1681o.

13 **FOURTH CAUSE OF ACTION**

14 (Violation of Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(4))
15 Against Defendants and Does 1-100)

16 **Experian Information Solutions, Inc. – Failure to Review and Consider All
17 Relevant Information.**

18 154. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
19 above as though fully set forth herein.

20 155. Experian violated 15 U.S.C. § 1681i(a)(4) by failing to review and consider all relevant
21 information submitted by Plaintiff.

22 156. As a result of Experian's violation of 15 U.S.C. § 1681i(a)(4), Plaintiff suffered actual
23 damages, including but not limited to , damage to reputation, embarrassment,
24 humiliation, and other mental and emotional distress.

25 157. The violations by Experian were willful, rendering each of the Defendants individually
26 liable for punitive damages in an amount to be determines by the Court pursuant to 15
27 U.S.C. § 1681n.

28 158. In the alternative, Experian was negligent, which entitles Plaintiff to recovery under 15
U.S.C. § 1681o.

159. Plaintiff is entitled to recover actual damages, statutory damages, costs and attorney's fees from Experian in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and § 1681o.

FIFTH CAUSE OF ACTION

(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(5)(A))
Against Defendants and Does 1-100)

Experian Information Solutions, Inc. – Failure to Delete Disputed and Inaccurate Information.

160. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

161. Experian violated 15 U.S.C. § 1681i(a)(5)(A) by failing to promptly delete the disputed inaccurate items of information from Plaintiff's credit file or modify the item of information upon a lawful reinvestigation.

162. As a result of Experian's violation of 15 U.S.C. § 1681i(a)(5)(A), Plaintiff suffered actual damages, including but not limited to, damage to reputation, embarrassment, humiliation, and other mental and emotional distress.

163. The violations by Experian were willful, rendering each of the Defendants individually liable for punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.

164. In the alternative, Experian was negligent, which entitles Plaintiff to recovery under 15 U.S.C. § 1681o.

165. Plaintiff is entitled to recover actual damages, statutory damages, costs and attorney's fees from Experian in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and § 1681o.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For preliminary and permanent injunctive relief to stop Defendants from engaging in the conduct described above;

2. Award statutory and actual damages pursuant to 15 U.S.C. § 1681n and California Civil Code § 1785.31;
3. Award punitive damages in order to deter further unlawful conduct pursuant to 15 U.S.C. § 1681n; and California Civil Code § 1785.31
4. Award attorney's fees and costs of suit incurred herein pursuant to 15 U.S.C. § 1681n & o; California Civil Code § 1785.31;
5. For determination by the Court that Creditor's policies and practices are unlawful and in willful violation of 15 U.S.C. § 1681n, et seq.; and
6. For determination by the Court that Creditor's policies and practices are unlawful and in negligent violation of 15 U.S.C. § 1681o;

Dated: September 18, 2017

SAGARIA LAW, P.C.

/s/ Elliot Gale, Esq.

Scott Sagaria, Esq.

Elliot Gale, Esq.

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of this matter by jury.

Dated: September 18, 2017

SAGARIA LAW, P.C.

/s/ Elliot Gale, Esq.

Scott Sagaria, Esq.

Elliot Gale, Esq.

Attorneys for Plaintiff